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# Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

<b>Agency/Board/Commission:</b>	State Board of Equalization
<b>Division:</b>	Comptroller of the Treasury
<b>Contact Person:</b>	Betsy Knotts, Executive Secretary
<b>Address:</b>	425 Fifth Avenue North, Cordell Hull Building, Nashville, TN 37243
<b>Phone:</b>	615-401-7954
<b>Email:</b>	Betsy.Knotts@cot.tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

<b>ADA Contact:</b>	Lela Shadrick
<b>Address:</b>	Comptroller of the Treasury, 425 Fifth Avenue North, Nashville, TN 37243
<b>Phone:</b>	615-401-7720
<b>Email:</b>	Lela.Shadrick@cot.tn.gov

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	Volunteer Conference Center, Room 2.701		
Address 2:	425 Fifth Avenue North, Second Floor, Cordell Hull Building		
City:	Nashville		
Zip:	37243		
Hearing Date :	12/16/2019		
Hearing Time:	9:00AM	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT
		<input type="checkbox"/> CST/CDT	

**Additional Hearing Information:**

**Revision Type (check all that apply):**

- Amendment
- New
- Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0600-13	Certified and Equalized Tax Rates
Rule Number	Rule Title
0600-13-.01	Purpose
0600-13-.02	Applicability
0600-13-.03	Definitions

0600-13-.04	Overview
0600-13-.05	Determining Certified and Equalized Tax Rate Calculation
0600-13-.06	Determining Estimated Centrally Assessed Property
0600-13-.07	Determining New Property
0600-13-.08	Determining Prior Year Tax Levy
0600-13-.09	Adjustments to the Tax Rate
0600-13-.10	Appeals Allowance and Recapture Rate

<b>Chapter Number</b>	<b>Chapter Title</b>
0600-14	Assessment of Commercial and Industrial Leasehold Interests
<b>Rule Number</b>	<b>Rule Title</b>
0600-14-.01	Applicability
0600-14-.02	Definitions
0600-14-.03	Assessable Leasehold Interests
0600-14-.04	Valuing Commercial and Industrial Leasehold Interests

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

0600-13, Certified and Equalized Tax Rates, is added as a new Chapter and shall read:

#### 0600-13-.01 PURPOSE

These standards address the procedures, processes, time frames, and statutory responsibilities for computing and implementing certified and equalized property tax rates. They provide a reference for uniform methods for setting certified and equalized property tax rates.

Authority: T.C.A. §§ 4-3-5103, 67-1-305, and 67-5-1601

#### 0600-13-.02 APPLICABILITY

These rules apply to all jurisdictions as well as multi-county jurisdictions undergoing reappraisal or current value updating during a given tax year.

Authority: T.C.A. §§ 4-3-5103, 67-1-305 and 67-5-1601

#### 0600-13-.03 DEFINITIONS

As used in these rules, unless the context otherwise requires:

- (1) "Appeals allowance" means either the projected loss of reappraisal assessment base due to appeals, or the portion of the certified rate attributed to this projected loss.
- (2) "Appraisal ratio" means a ratio based on a comparison of appraised values recorded for real property and recent sales and/or expert appraisals. The appraisal ratio indicates generally what percent of fair market value is represented by the appraised value of a property.
- (3) "Centrally assessed property" means property that is assessed by the Comptroller of the Treasury under the provisions of T.C.A. § 67-5-1301, *et seq.*
- (4) "Computer Assisted Mass Appraisal (CAMA)" means a system of appraising property that incorporates statistical analyses such as multiple regression analysis and adaptive estimation procedure to assist skilled and trained appraisers in estimating real property values.
- (5) "Certified tax rate (CTR)" means a tax rate calculated pursuant to the provisions of T.C.A. § 67-5-1701 that will generate the same revenue for a jurisdiction as was levied during the prior tax year.
- (6) "Construction in process (CIP)" means personal property that is treated as construction in process for federal income tax purposes as of January 1 of a given year.
- (7) "Current value update (CVU)" means an updating of all real property values if the overall level of appraisal for the jurisdiction is less than ninety percent (90%) of fair market value in the third year of a six year reappraisal cycle as set forth in T.C.A. § 67-5-1601(a)(2).
- (8) "Equalized tax rate (ETR)" means the rate determined for cities that lie in more than one county pending a general reappraisal or current value update to adjust the city tax rate to accommodate differing levels of assessment within the city. The purpose of this approach is to adjust the city tax rate so that all properties are taxed uniformly when both the rate and assessed value are considered together.
- (9) "Integrated Multi-Processing of Administrative and CAMA Technology system (IMPACT)" refers to the State's computer-assisted mass-appraisal system that maintains property tax assessments made by county assessors for the majority of Tennessee counties.
- (10) "Jurisdiction" means the city or county for which the rate is being calculated.

- (11)“Locally assessed property” means the assessment determined by an official of the local jurisdiction where the property is located.
- (12)“Multi-county jurisdiction” means a city or special school district that lies in more than one county.
- (13) “New land” means real properties qualifying for greenbelt classification for the first time in the reappraisal year, or properties that no longer qualify for greenbelt classification in the reappraisal year. This could necessitate an adjustment in the tax rate (adjust the levy for new greenbelt properties or to, adjust the base for properties that no longer qualify for greenbelt classification).
- (14)“New personal property” means tangible personal property taxable for the first time in the current tax year. The assessed value of new personal property is listed on line one of each group on the annual personal property schedule, with the exception of groups 7, 8 and 10.
- (15) “New real property” means real property taxable for the first time in a reappraisal or current value update tax year. Real property is defined by state law to include land, structures and improvements on land, certain mobile homes, and machinery and equipment affixed to the land.
- (16)“Non-IMPACT county” means a county that maintains a Computer Assisted Mass Appraisal system other than IMPACT.
- (17)“Outbuildings and yard items (OBY’s)” are extra features of buildings or improvements to land not included elsewhere.
- (18)“Parcel” means land, including the resources in and on it, and the buildings and permanent fixtures attached to it. It may be a contiguous tract of land or one of several lots on a plat, separately owned, either publicly or privately, and capable of being separately conveyed.
- (19)“Parcel identification number” is the numeric or alphanumeric description of a parcel that identifies it uniquely.
- (20)“Payments in lieu of taxes (PILOT)” are payments made by private taxpayers, often businesses, to a local government to help offset losses in property taxes due to special tax treatment.
- (21)“Prior year” means the tax year immediately preceding the current tax year.
- (22)“Prorate” means the setting of the tax rate for newly constructed improvements existing in the prior year but that are taxed for the first time in the current year.
- (23)“Raw material” means items of tangible personal property, crude or processed, which are held or maintained by a taxpayer for use through refining, combining, or any other process in the production or fabrication of another item or product.
- (24)“Real property” is as defined by T.C.A. § 67-5-501(10).
- (25)“Reappraisal” means a revaluation of all property within a jurisdiction completed on a continuous cycle as set forth in T.C.A. § 67-5-1601.
- (26)“Recapture rate” means the actual tax rate from the reappraisal year reduced by the amount which the reappraisal year certified tax rate was overstated due to an excessive appeals allowance.
- (27)“Scrap property” refers to personal property no longer capable of use and for which there is no reasonable expectation of repair.
- (28)“Special school district (SSD)” are school districts that collect property taxes, the rates of which are set by the General Assembly. These districts must use the legislated rate until reappraisal, after which they must use the tax-neutral rate until the General Assembly acts to set a new rate.
- (29)“Tangible personal property” is as defined by T.C.A. § 67-5-501(13).

(30) "Tax increment financing (TIF)" is a tool used by local governments to encourage development in targeted areas.

(31) "Tax year" means the period of January 1 through December 31 of the year in which property taxes become due.

#### 0600-13-.04 OVERVIEW

These standards provide the administrative framework for setting property tax rates including certified and equalized tax rates. Included are definitions, property tax rate calculation procedures beginning with the certified tax rate procedures, information on various rates (levies), guidelines for increasing taxes, and final approval of the rates.

In order for a rate to be finalized, the following procedure must be followed:

(1) Certified tax rate:

- a. Assessor of property reviews calculation.
- b. After assessor review, calculation is forwarded to the chief executive of the Jurisdiction and/or SSD for approval and signature.
- c. After calculation is signed by chief executive and assessor of property, the form is returned to the State Board of Equalization.

(2) Equalized tax rate:

- a. Calculation is sent to respective Jurisdiction's chief executive.
- b. Copies of the calculation are sent to the respective assessors of property and finance directors.
- c. After calculation is signed by the chief executive and assessors of property, the form is returned to the State Board of Equalization.

In order for a rate to be finalized, each taxing jurisdiction must first approve a tax rate. If the rate is less than or equal to the rate certified by the State Board of Equalization no further documentation, other than the signed calculation form, is required by the State Board.

If the tax rate is exceeded, the appropriate documents should be submitted to the State Board of Equalization per T.C.A. § 67-5-1702.

Use of mathematical rounding in rate calculations (rounding up a certified rate) is not permitted under the applicable law.

Once all legal requirements have been met in adopting a certified or equalized tax rate, the State Board of Equalization will concur in the rate and authorize release of tax notices for the respective jurisdiction.

#### 0600-13-.05 DETERMINING CERTIFIED AND EQUALIZED TAX RATES

The first step is to determine the type of calculation needed: 1) Certified Tax Rate; or 2) Equalized Tax Rate.

(1) Certified Tax Rate:

- a. The first step is fixing a pro forma current year tax base for the jurisdiction by removing new property from the locally assessed property tax base and then add in the estimated centrally assessed property.
- b. The second step is determining the prior year property tax levy.
- c. The third step is determining the certified tax rate. Divide the prior year property tax levy by the pro forma current year tax base and multiply by 100.

EXAMPLE

A city prior year tax levy is \$14,352,424, and the pro forma current year tax base is \$723,120,031. The following is an example of the calculation:

$$\$14,352,424 / 723,120,031 * 100 = \$1.9848 \text{ (Certified Tax Rate)}$$

(2) Equalized Tax Rate:

- a. The first step is fixing a pro forma equalized current year tax base for the city by removing new property from the locally assessed tax base and then add in the estimated centrally assessed property for the part of the city lying in each county.
- b. The second step is determining the prior year property tax levy for each part of the city lying in different counties. These numbers are added together to arrive at the total prior year property tax levy used in the fourth step.
- c. The third step is determining the current year's equalized adjusted assessment for each part of the city by dividing the adjusted current year total assessment in each part of the city by the current year's approved appraisal ratio. These numbers are added together to arrive at the total equalized adjusted assessment used in the fourth step.

EXAMPLE

A city current year adjusted assessment is \$3,934,948 for JUR 1 and \$1,545,591 for JUR 2, and the current year appraisal ratio is 1.0000 for JUR 1 and .8200 for JUR 2. The following is an example of the calculation:

JUR 1 – Adjusted Assmt.	\$3,934,948	Appraisal Ratio	1.0000
JUR 2 – Adjusted Assmt.	\$1,545,591	Appraisal Ratio	.8200

$$\text{JUR 1} - \$3,934,948 / 1.0000 = \$3,934,948 \text{ (current year equalized adjusted assmt.)}$$

$$\text{JUR 2} - \$1,545,591 / .8200 = \$1,884,867 \text{ current year equalized adjusted assmt.)}$$

Add JUR 1 and JUR 2 equalized adjusted assmt.:

\$3,934,948
<u>\$1,884,867</u>
\$5,819,815 (Total current year equalized adjusted assmt.)

- d. The fourth step is determining an overall equalized tax rate by dividing the total equalized adjusted assessment by the total prior year property tax levy times 100.

EXAMPLE

A city total prior year property tax levy is \$44,636, and the total current year equalized adjusted assessment is \$5,819,815. The following is an example of the calculation:

JUR 1 – Prior Year Tax Levy	\$30,062	Equalized Adjusted Assmt.	\$3,934,948
JUR 2 – Prior Year Tax Levy	<u>\$14,574</u>	Equalized Adjusted Assmt.	<u>\$1,884,867</u>
TOTAL:	\$44,636	TOTAL:	\$5,819,815

$$\$44,636 / \$5,819,815 * 100 = \$0.7670 \text{ (Overall Estimated Tax Rate)}$$

- e. The fifth step is determining the equalized tax rate for the part of the city lying in each county by dividing the overall equalized tax rate by the approved current year appraisal ratio for each county.

EXAMPLE

A city overall equalized tax rate is \$0.7670. The current year appraisal ratio for JUR 1 is 1.0000 and .8200 for JUR2. The following is an example of the calculation:

JUR 1 –  $\$0.7670/1.0000 = \$0.7670$  (current year equalized tax rate)

JUR 2 –  $\$0.7670/.8200 = \$0.9353$  (current year equalized tax rate)

#### 0600-13-.06 DETERMINING ESTIMATED CENTRALLY ASSESSED PROPERTY

- (1) Determining the estimated centrally assessed property comprises of the following two (2) components: 1) Prior year State Board of Equalization certified assessment of centrally assessed property for the jurisdiction; and 2) Prior year approved appraisal ratio.
- (2) EXAMPLE OF DETERMINING ESTIMATED CENTRALLY ASSESSED PROPERTY:

##### EXAMPLE

This example assumes that the public utility assessment certified by the State Board of Equalization for the preceding year is \$11,369,770 and the prior year's approved appraisal ratio is .7912. The following is an example of the calculation:

$\$11,369,770/.7912 = \$14,370,285$  (\$14,370,285 = estimated centrally assessed property)

#### 0600-13-.07 DETERMINING NEW PROPERTY

##### New real property reporting:

- (1) New real property must be deducted from the current year pro forma tax base. Below is a listing of types of new real property that should be deducted:
  - a. Dwellings
  - b. Dwellings (pro-rated)
  - c. OBY's
  - d. OBY's (pro-rated)
  - e. Commercial
  - f. Commercial (pro-rated)
  - g. Additions
  - h. Additions (pro-rated)

##### New personal property reporting:

- (1) New tangible personal property must be deducted from the current year pro forma tax base. New tangible personal property is determined by adding year one of each group on the personal property schedule with the exception of the three non-depreciable groups (Group 7-scrap property; Group 8-raw materials, supplies; and Group 10-CIP).
- (2) Tangible personal property which has been removed from the current year actual tax base (due to exemptions or physical removal by owners) since the prior year should be deducted from the prior year property tax levy.

##### New land reporting:

- (1) Properties that qualify for greenbelt classification for the first time in the reappraisal year, or that cease to qualify for greenbelt in the reappraisal year could necessitate an ETR adjustment (adjust the prior year tax levy for new greenbelt, adjust current year pro forma tax base for properties coming off).
- (2) EXAMPLES OF DETERMINING NEW LAND:

##### EXAMPLE

This example treats 60 acres as divided, but in fact all 100 acres from the prior year have been divided. If the 100-acre parcels from the prior year has become a 40-acre parcel and 60 one-acre parcels in the current year, all the new parcels are 'child' parcels (including the 40-acre remnant), even if one of them still bears the same parcel identification number as the former 100-acre parcel. To calculate the 'new land' for tax rate purposes, take the hypothetical 'reappraisal' assessed value of the 100 acres as if it had remained intact, minus the prior year's assessed value of the 100 acres. That difference is attributable to the reappraisal, and the balance of the new assessed value for the 40 acre and the 60 one-acre parcels, would be the 'new land.'

#### 0600-13-.08 DETERMINING PRIOR YEAR TAX LEVY

- (1) Determining the prior year tax levy comprises the following components: 1) Total prior year tax base; and 2) Prior year tax rate.
- (2) EXAMPLE OF DETERMINING PRIOR YEAR TAX LEVY:

##### EXAMPLE

A Jurisdiction's prior year total tax base is \$4,561,666,107 (Jurisdiction's prior year State Board of Equalization certified total centrally assessed property + Jurisdiction's prior year total locally assessed property) and the jurisdiction's prior year tax rate is \$2.50 for every \$100 in value. The following is an example of the calculation:

$$\$4,561,666,107/100*2.50=\$114,041,653 \text{ (Prior Year Tax Levy)}$$

#### 0600-13-.09 ADJUSTMENTS TO THE TAX RATE

- (1) Adjustments for property tax incentives are limited to instances where an incentive payment in lieu of tax is calculated on the basis of the actual rate applied to a fixed assessment and not a percentage of an assessment.
- (2) In determining TIF adjustments, the jurisdiction may also exclude from the taxable value appearing on the roll:
  - a. The taxable value of properties subject to tax increment financing provisions adopted by the governing body pursuant to statute; and
  - b. The taxable value of properties within an area for which an economic impact plan has been approved by the governing body.

#### 0600-13-.10 APPEALS ALLOWANCE AND RECAPTURE RATE

- (1) Determining the appeals allowance must be based on the proportion of atypical appeals reductions experienced by the city or county in the most recent one or more reappraisals. The allowance is derived not merely from the percentage of assessment loss due to appeals in past reappraisal(s) but on the amount by which this percentage loss exceeded the typical assessment loss due to appeals in a non-reappraisal year. The calculation submitted to the State Board of Equalization should therefore include documentation of the total assessment base before and after appeals, for the year of the most recent reappraisal *and* the year before the most recent reappraisal. The allowable adjustment is the percentage by which the reappraisal year percentage loss exceeded the loss from the year before. If data is available for more than one recent reappraisal, an average may be used. If no verifiable data is available, the allowance is not permitted. In order for an allowance to be administered it must be approved by the Executive Secretary of the State Board of Equalization.
  - a. Explanation of calculation: The appeals allowance will appear in the certified tax rate calculation as an assessment amount to be deducted from the reappraisal year assessment base, and the amount is determined by multiplying the reappraisal year assessment base (local assessments only) times the percentage determined under item (1) above.
  - b. Upon receipt of the assessor's report, the State Board staff shall record net aggregate assessment reductions by the county board of equalization in the certified tax rate file for each

city and county. In addition, on or before May 1<sup>st</sup> of the year following the reappraisal, the State Board staff shall record in the certified tax rate files, the net aggregate assessment reductions by the State Board of Equalization to date for the reappraisal year. If the total of these assessment reductions exceeds the appeals allowance used in the certified tax rate, the Board shall notify the assessor and the chief executive officer of the city or county, and a certified recapture rate shall be calculated and determined for the city or county for the year following the reappraisal.

(2) The recapture tax rate shall be the actual tax rate from the reappraisal year, reduced by the amount by which the reappraisal year certified tax rate was overstated due to the excessive appeals allowance. The city or county may not exceed the certified recapture tax rate in the year following the reappraisal without prior public notice and hearing in the same manner provided for exceeding the certified tax rate in a year of reappraisal. The city or county must provide the same compliance documentation regarding the recapture rate as is required when a certified tax rate is exceeded (affidavit of publication and certified copy of tax rate ordinance/resolution).

(1) EXAMPLE OF DETERMINING RECAPTURE RATE:

EXAMPLE

**Calculation for certified recapture rate**

City of \_\_\_\_\_, 2019  
(as of 6-30-19)

Line no.	Item		
1	2018 assessed value	130,793,172	
2	(+) 2018 appeals allowance	1,053,000	
3	Unadjusted assessments	131,846,172	
4	(-) Net assmt. changes	849,130	
5	Adjusted base	<u>130,997,042</u>	
6	CTR levy	1,106,069	
7	Rate bef. 2018 increase	0.844	(line6/line5)
8	2018 increase (if any)	0.01	
9	Recapture rate	0.854	

0600-14, Assessment of Commercial and Industrial Leasehold Interests, is added as a new Chapter and shall read:

0600-13-.01 APPLICABILITY.

Unless otherwise provided herein these rules shall govern the procedure for valuation of any industrial and commercial Leasehold Interest held by a non-governmental entity in real property owned by the United States government, the State of Tennessee, any county, or any incorporated town, city or taxing district, or any agency or political subdivision thereof.

Authority: T.C.A. §§ 67-1-305, 67-5-605, 67-5-502(d).

0600-13-.02 DEFINITIONS

As used in these rules and in interpretation of T.C.A. § 67-5-502 and T.C.A. § 67-5-605, unless context requires otherwise:

- (1) "Taxable Interest" means an interest in real property subject to assessment and taxation.
- (2) "Leasehold Interest" means an interest in real property under the terms of a lease or agreement for a specified period of time.
- (3) "Leasehold Owner" means the owner of the current Leasehold Interest, typically the lessee.
- (4) "Real Property Interest" means an interest in real property arising from the combination of a physical relationship to the property that confers a degree of physical control over the property and the intent to exercise such control to the exclusion of others. Neither the right to use nor the right to enter and leave

property is sufficient to create a Real Property Interest.

- (5) "Actual Rent" means rent or other compensation paid under a lease or similar agreement.
- (6) "Imputed Rent" means those costs paid by the lessee that are typically borne by the lessor or owner of the property, including the cost of capital improvements, real property maintenance, and the cost of insurance. The term of the lease or other agreement, including optional renewal terms, shall be used for purposes of amortizing the cost of real-property, capital, or other improvements borne by the Leasehold Owner.
- (7) "Fair Market Rent" means the fair market annual rental value for a Leasehold Interest based upon rents paid to lease comparable properties.

Authority: T.C.A. §§ 67-1-305, 67-5-605, 67-5-502(d).

#### 0600-13-.03 ASSESSABLE LEASEHOLD INTERESTS

In order for a Leasehold Interest to create a Taxable Interest:

- 1) The fee interest in the real property must be exempt from property taxes;
- 2) The property must be used primarily for the private benefit of the lessee with any public purpose being only incidentally served;
- 3) The lease must convey a Real Property Interest in the subject property to the lessee;
- 4) The property must not otherwise be the subject of a lawful agreement between a lessee and a local government, or instrumentality thereof, for payments in lieu of taxes entered into or amended on or after April 30, 2019; and
- 5) The Leasehold Interest must have a taxable value.

Authority: T.C.A. §§ 67-1-305, 67-5-605, 67-5-502(d).

#### 0600-13-.04 VALUING COMMERCIAL AND INDUSTRIAL LEASEHOLD INTERESTS

The value of the excess, if any, of the Fair Market Rent over the Actual Rent and Imputed Rent must first be determined. If the Fair Market Rent for a subject property is equal to or less than the combination of the Actual Rent and the Imputed Rent, then the Leasehold Interest has no taxable value. If the Fair Market Rent for a subject property exceeds the combination of the Actual Rent and the Imputed Rent, then the excess, calculated on an annual basis, is discounted over the remaining term in years, including optional renewal terms, to its present value as of the appraisal date represents the taxable value of the Leasehold Interest.

Authority: T.C.A. §§ 67-1-305, 67-5-605, 67-5-502(d).

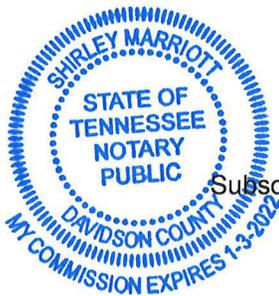
I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: October 22, 2019

Signature: *Betsy Knotts*

Name of Officer: Betsy Knotts

Title of Officer: Executive Secretary to the State Board of Equalization



Subscribed and sworn to before me on: 22nd October 2019

Notary Public Signature: *Shirley Marriott*

My commission expires on: 03 Jan 2022

**Department of State Use Only**

Filed with the Department of State on: 10/22/19

*Tre Hargett*

Tre Hargett  
Secretary of State

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